

**DECLARATION, POWER OF ATTORNEY AND PETITION**

As below named inventors, we hereby declare: that our residences, post office addresses and citizenships are as stated below next to our names; that we verily believe we are the original, first, and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled AN ELECTRONIC MEDICAL REFERENCE LIBRARY DEVICE, the specification of which is attached hereto; that we have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above; and that we acknowledge the duty to disclose information which is material to patentability as defined in § 1.56(a) of Title 37 of the Code of Federal Regulations.

We declare further that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent issuing thereon.

As the below named inventors, we hereby declare that we qualify as independent inventors as defined in 37 C.F.R. 1.9(c) for purposes of paying reduced fees under § 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office.

We hereby appoint as its attorneys and/or patent agents the law firm of JONES, WALDO, HOLBROOK & McDONOUGH, having a business address of 1500 Wells Fargo Plaza, 170 South Main Street, Salt Lake City, Utah 84101-1644, and BRENT T. WINDER, Registration No. 46,250,

all with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

All correspondence concerning this application should be directed to:

Brent T. Winder  
JONES, WALDO, HOLBROOK & McDONOUGH, PC  
170 South Main Street, Suite 1500  
Salt Lake City, Utah 84101-1644  
Telephone: (801) 521-3200  
Facsimile: (801) 328-0537

Wherefore, we pray that Letters Patent be granted to us for the invention or discovery described and claimed in the foregoing specification and claims, declaration, power of attorney, and this petition.

Signed at Salt Lake City, Utah, this 19<sup>th</sup> day of August, 2003.

INVENTOR(S):



HUGH F. HARNISBERGER  
Salt Lake City, Utah  
United States of America  
3774 Lois Lane  
Salt Lake City, Utah 84124

INVENTOR(S):



MICHAEL E. HASSON  
Salt Lake City, Utah  
United States of America  
2136 South 2000 East  
Salt Lake City, Utah 84106

Please type a plus sign (+) inside this box → **[+]**

PTO/SB/81 (11-96)

Approved for use through 6/30/99. OMB 0651-0035

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE  
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**POWER OF ATTORNEY OR  
AUTHORIZATION OF AGENT,  
NOT ACCOMPANYING  
APPLICATION**

Application Number	
Filing Date	
First Named Inventor	Hugh F. Harnsberger
Group Art Unit	
Examiner Name	
Attorney Docket Number	12382.0016

I hereby appoint:

Practitioners at Customer Number

**OR**

Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the Patent and Trademark Office connected therewith.

Please change the correspondence address for the above-identified application to:

The above-mentioned Customer Number.

**OR**

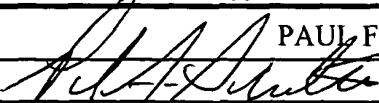
<input checked="" type="checkbox"/> Firm or Individual Name	Brent T. Winder			
Address	Jones Waldo Holbrook & McDonough			
Address	170 South Main Street, Suite 1500			
City	Salt Lake City	State	Utah	ZIP 84101
Country	USA			
Telephone	801 521-3200	Fax	801 328-0537	

I am the:

Applicant.

Assignee of record of the entire interest  
*Certificate under 37 CFR 3.73(b) is enclosed*

**SIGNATURE of Applicant or Assignee of Record**

Name	PAUL F. SCHOLTES
Signature	
Date	8/19/03

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

**EXECUTION COPY**

**SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (this "Agreement") is made and entered into as of the 1<sup>st</sup> day of October, 2002, (the "Effective Date") between Gregory Phipps ("Phipps") and Amirsys, Inc., a Delaware corporation ("Amirsys"), who shall be referred to as the "Parties", or individually as a "Party".

**DEFINITIONS**

1. "Employee" shall mean Phipps and his or her heirs, assigns, and legal representatives.
2. "Common Stock" shall mean Amirsys common stock.
3. The phrase "Amirsys Released Parties" shall mean Amirsys, Inc. and any and all business units, committees, groups, and their present, former or future parents, affiliates, subsidiaries, directors, officers, employees, consultants, attorneys, successors, predecessors, and assigns.
4. The "Phipps Released Claims" shall mean any type or manner of suits, claims, demands, allegations, charges, damages, or causes of action whatsoever in law or in equity under federal, state, municipal or local statute, law, ordinance, regulation, constitution, or common law, whether known or unknown, which Phipps has ever had or now has against the Amirsys Released Parties. This includes but is not limited to any action for costs, interest or attorney's fees, which arise in whole or in part from Phipps's employment with Amirsys, from the ending of that relationship, and from any other conduct by or dealings of any kind between Phipps and the Amirsys Released Parties, which occurred prior to the Effective Date. This also includes but is not limited to any and all claims, rights, demands, allegations and causes of action for alleged wrongful discharge, breach of alleged employment contract, breach of the covenant of good faith and fair dealing, termination in violation of public policy, intentional or negligent infliction of emotional distress, fraud, misrepresentation, defamation, interference with prospective economic advantage, failure to pay wages due or other monies owed, failure to pay pension benefits, conversion, breach of duty, interference with existing economic relations, punitive damages, retaliation, discrimination on the basis of age in violation of the Age Discrimination and Employment Act of 1967, as amended ("ADEA"), harassment or discrimination on the basis of sex, race, color, citizenship, religion, age, national origin, or disability, or other protected classification under the federal, state, municipal or local laws of employment, including those arising under the common law, and any alleged violation of the Employee Retirement Income Security Act of 1974 ("ERISA"), the Fair Labor Standards Act ("FLSA"), the Occupational Safety and Health Act ("OSHA"), and any other law.

5. The "Amirsys Released Claims" shall mean any type or manner of suits, claims, demands, allegations, charges, damages, or causes of action whatsoever in law or in equity under federal, state, municipal or local statute, law, ordinance, regulation, constitution, or common law, whether known or unknown, which Amirsys has ever had or now has against Phipps. This includes but is not limited to any action for costs, interest or attorney's fees, which arise in whole or in part from Phipps's employment or any other relationships with Amirsys, from the ending of those relationships, and from any other conduct by or dealings of any kind between Phipps and Amirsys, which occurred prior to the Effective Date. This also includes but is not limited to any and all claims, rights, demands, allegations and causes of action for alleged wrongful discharge, breach of alleged employment contract, breach of the covenant of good faith and fair dealing, intentional or negligent infliction of emotional distress, fraud, misrepresentation, defamation, interference with prospective economic advantage, conversion, breach of duty, interference with existing economic relations, punitive damages, and any alleged violation of any other law.

### **BACKGROUND**

A. Phipps incorporated Amirsys in July 2000. He has been an employee since that date with an annual salary of \$210,000 per year (the "Annual Salary"). Phipps employment relationship with Amirsys was at-will. In addition to the Annual Salary paid in 2001 and 2002, Phipps was paid by Amirsys \$77,292 in the form of deferred compensation for services rendered to Amirsys during 2000 ("Deferred Compensation").

B. In November 2000, Phipps purchased shares of Common Stock pursuant to a Stock Purchase Agreement, dated November 2, 2000 (the "2000 Stock Purchase Agreement"). Pursuant to the 2000 Stock Purchase Agreement, Phipps purchased 240,000 shares of Common Stock at \$0.40 per share for a total purchase price of \$96,000. Of this \$96,000 purchase price, Phipps paid \$5,000 in cash, \$46,000 in intellectual property, and \$45,000 by a promissory note (the "Founding Note"), attached hereto as Exhibit A. The principal amount of the Founding Note is due 10 years from its signing. Interest accrues at an annual simple rate of 6.09%. Interest is due annually. No interest has been paid. Accordingly, this Founding Note is currently in default and all principal and interest is due as of the Effective Date.

C. In December 2000, Phipps borrowed \$30,000 from Amirsys in the form of two promissory notes, one for \$10,000 and one for \$20,000 (the "December 2000 Notes"), attached hereto as Exhibit B. The principal amount of these December 2000 Notes is due 10 years from their signing. Interest accrues at an annual simple rate of 6.09%. Interest is due annually. No interest has been paid. Accordingly, these December 2000 Notes are currently in default and all principal and interest is due as of the Effective Date.

D. In April 2001, Phipps purchased additional shares of Common Stock pursuant to a Stock Purchase Agreement, dated April 6, 2001 (the "2001 Stock Purchase Agreement"). Pursuant to the 2001 Stock Purchase Agreement, Phipps purchased 80,000 shares of Common Stock at \$0.40 per share for a total purchase price of \$80,000. The purchase of these additional shares brought Phipps' total ownership to 320,000 shares of Common Stock, which is the

number of shares that he holds as of the Effective Date. Phipps paid the purchase price for these additional shares by a promissory note (the "April 2001 Note"), attached hereto as Exhibit C. The principal amount of the April 2001 Note is due 10 years from its signing. Interest accrues at an annual simple rate of 6.09%. Interest is due annually. No interest has been paid. Accordingly, the April 2001 Note is currently in default and all principal and interest is due as of the Effective Date.

E. On September 3, 2002 (the "Termination Date"), Phipps's employment with Amirsys was terminated.

F. Following Amirsys's termination of Phipps's employment, the parties have mutually agreed that it is in their best interests to enter into this Agreement to settle all of the terms of Phipps's employment and to settle any past or potential claims and disputes between them.

### **AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants set forth in this Agreement, the Parties agree as follows:

1. Termination of Phipps. Phipps hereby acknowledges that he was terminated as President, Chief Executive Officer, and Secretary of Amirsys as of the Termination Date. Phipps also hereby resigns as a director and member of the compensation committee of the Board of Directors of Amirsys, effective as of the Effective Date.

2. Re-valuation of Intellectual Property. The Parties acknowledge and agree that the \$46,000 worth of intellectual property that was initially contributed in November 2000 by Phipps for the purchase of 115,000 shares of Common Stock was incorrectly valued. The parties agree that the actual value of the intellectual property that was contributed was \$18,000. The Parties hereby agree to cancel 70,000 shares of Common Stock owned by Phipps as of November 2, 2000, at \$0.40 per share to reflect this re-valuation.

3. Cancellation of Promissory Notes. As of the Effective Date, the Parties hereby acknowledge and agree that the principal and all accrued but unpaid interest on the four promissory notes is as follows: the Founding Note \$50,233.23; the December 2000 Notes \$33,248.56, and the April 2001 Note \$34,893.83. Therefore, the total amount (principal and interest) that is owed by Phipps to Amirsys pursuant to these promissory notes as of the Effective Date is \$118,375.62. Amirsys hereby agrees to the cancellation of 62,303 shares of Common Stock, owned by Phipps, at \$1.90 per share in exchange for the cancellation of all the principal and all accrued but unpaid interest on the Founding Note, the December 2000 Notes, and the April 2001 Note.

4. Repayment of Deferred Compensation by Phipps. As of the Effective Date, Phipps shall be considered to have repaid Amirsys \$41,000 of the \$77,292 paid in Deferred Compensation, and Amirsys shall be considered to have purchased from Phipps 21,579 shares of Common Stock

at \$1.90 per share for a total purchase price of \$41,000. Phipps may on his 2002 tax return take a miscellaneous deduction or a tax credit in the amount of \$41,000, which is the amount of Deferred Compensation returned to Amirsys.

5. Purchase of Common Stock by Amirsys. As of the Effective Date, Amirsys shall purchase 52,632 shares of Common Stock from Phipps at \$1.90 per shares for a total purchase price of \$100,000. Amirsys shall deliver a check to Phipps for the above amount on the Effective Date.

6. Sale of Common Stock by Phipps. Immediately following the Effective Date, Phipps intends to sell up to 113,486 shares of Common Stock to interested third parties. Amirsys shall use its reasonable efforts to assist Phipps with the prompt sale of these shares.

7. Health and Dental Benefits. Amirsys shall continue to pay Phipps's health and dental insurance premiums under Amirsys's health and dental insurance benefit programs for three months after the Effective Date (i.e., for the months of October of 2002, November of 2002, December 2002 of 2002, known as the "Health Benefits Continuation Period"). Amirsys is not obligated to provide COBRA coverage to Phipps, however, as an accommodation to Phipps, Amirsys shall provide COBRA-like benefits to Phipps under Amirsys health and dental insurance benefit programs at his cost. Phipps shall deliver to Amirsys a check for the applicable insurance premium, no later than the close of business on the 25<sup>th</sup> day of each calendar month preceding the following coverage month. Amirsys shall then pass on Phipps' premium payment to its insurance provider. If Phipps fails to make this payment to Amirsys by the above deadline, Amirsys shall have no liability to Phipps if his insurance coverage is thereafter terminated. Such coverage shall be provided up to nine (9) months from September 30, 2002. Phipps shall not receive or be eligible to receive any other employee benefits from Amirsys after the Effective Date. Amirsys shall have the right after the Effective Date to change its health and dental insurance carrier and/or benefits for its employees in its discretion. Phipps shall have no vested rights in such coverage as it was in effect on the Effective Date. In the event that Amirsys elects to change its health and dental insurance coverage, Amirsys shall not be obligated to provide Phipps COBRA-like benefits from the start date of the new health the dental insurance coverage, if the new health and dental insurance carrier refuses to provide COBRA-like benefits to Phipps.

8. Co-Sale and First Right of Refusal. Pursuant to the 2000 Stock Purchase Agreement and 2001 Stock Purchase Agreement, (the "Stock Purchase Agreements") Amirsys has a right of first refusal with respect to any proposed transfer by Phipps of his shares. Pursuant to the Stock Purchase Agreements, Phipps is required to give Amirsys notice of any proposed transfer. Thereafter, Amirsys has the right for 30 days to purchase the shares that are proposed to be transferred at the proposed price. Amirsys shall as soon as possible but not later than three (3) days from date Amirsys receives such notice of a proposed transfer notify Phipps of Amirsys's intention to purchase the shares in the proposed transfer. Also pursuant to an Equity Investment Agreement with Elsevier, dated July 13, 2001, Phipps, entered into a co-sale agreement with Elsevier (the "Co-Sale Agreement"). Pursuant to the Co-Sale Agreement, if Phipps proposes to sell any of his shares of Amirsys, he must first notify Elsevier of such proposed sale. Thereafter, Elsevier has 15 days to decide if it also wants to sell a portion of its shares in the same transaction. Phipps hereby agrees and acknowledges that in

selling shares to third parties, he is required to give notice to both Elsevier under the co-sale agreement and to Amirsys under its right of first refusal. Phipps shall not utilize "Confidential Information" (as defined below in Section 10) in furtherance of any sale of Phipps shares without the prior written consent of Amirsys. Amirsys hereby waives its right of first refusal for the proposed sale to Satel, Inc. of up to 113,486 shares of Common Stock for \$1.90 per share, for an maximum aggregate price purchase price of \$215,623.

9. Confidentiality. Phipps has at times during the term of his employment and thereafter, to hold in strictest confidence, and not to use, except for the exclusive benefit of Amirsys, or to disclose to any person, firm or entity without written authorization of the Board of Directors of Amirsys, any Confidential Information of Amirsys. Phipps understands that "Confidential Information" means any Amirsys proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customer lists, shareholder lists, and customers , markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to Phipps by Amirsys either directly or indirectly in writing, orally or by drawings or observation of parts or equipment. Phipps further understands that Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved or improvements or new versions thereof.

10. Assignment of Inventions. Phipps hereby assign to Amirsys, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements, designs, discoveries, ideas, trademarks or trade secrets, whether or not patentable or registrable under copyright or similar laws, which he may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time he was employed with Amirsys (collectively referred to as "Inventions"). Phipps further acknowledges that all original works of authorship which are made by Phipps (solely or jointly with others) within the scope of and during the period of my employment with Amirsys and which are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act. Phipps understands and agrees that the decision whether or not to commercialize or market any invention developed by Phipps solely or jointly with others is within Amirsys's sole discretion and for Amirsys's sole benefit and that no royalty shall be due to Phipps as a result of Amirsys's efforts to commercialize or market any such invention.

11. Return of Property. Phipps acknowledges and agrees that he has delivered to Amirsys (and shall not keep in his possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, domain names, other documents or property, or reproductions of any aforementioned items developed by Phipps pursuant to his employment with Amirsys or otherwise belonging to Amirsys, its successors or assigns. Phipps shall also no later than December 15, 2002 cease use of the personalized vanity license plate on his vehicle bearing the name "Amirsys", and deliver such plates to Amirsys's legal counsel.

12. Non-Solicitation of Amirsys Employees. Phipps agrees that for a period of twelve (12) months immediately following the Effective Date, Phipps shall not either directly or indirectly solicit, induce, recruit or encourage any of Amirsys's employees to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage or take away employees of Amirsys, either for himself or for any other person or entity.

13. Covenant Not to Compete. Phipps agrees that for twelve (12) months following the Effective, he shall not, without the prior written consent of Amirsys, (i) serve as a partner, employee, consultant, officer, director, manager, agent, associate, investor, or (ii) directly or indirectly, own, purchase, organize or take preparatory steps for the organization of, or (iii) build, design, finance, acquire, lease, operate, manage, invest in, work or consult for or otherwise affiliate himself with any business, in competition with or otherwise similar to Amirsys's business. The foregoing covenant shall cover Phipps activities in every part of the Territory (as defined below) in which Phipps may conduct business during the term of such covenant. The term "Territory" shall mean (i) all counties in the State of Utah, (ii) all other states of the United States of America and (iii) all other countries of the world; provided that, with respect to clauses (ii) and (iii), Amirsys derives at least five percent (5%) of its gross revenues from such geographic area prior to the date of the termination of my relationship with Amirsys.

14. Waiver of Notice to September 4, 2002 Board Meeting. As of the Effective Date, Phipps shall deliver to Amirsys an executed copy of the Waiver of Notice of Special Meeting of the Board of Directors of Amirsys, for a board meeting held on September 4, 2002. A copy of the waiver is attached hereto as Exhibit D.

15. Voting Agreement. After the Effective Date, Phipps hereby acknowledges and agrees to continue to be bound by the Voting Agreement, dated July 12, 2001 by and between Phipps and Elsevier.

16. Payment of Salary and Accrued Vacation. Prior to the execution of this Agreement, Amirsys has delivered to Phipps a final gross paycheck, which includes accrued but unpaid wages, earned vacation days, and any other amount due Phipps on September 2, 2002, in the amount of \$12,381.82. Phipps acknowledges and agrees that as of the Effective Date of this Agreement, the Amirsys has paid to Phipps (a) all compensation due for wages earned, less normal payroll deductions, (b) all amounts due for earned vacation pay less normal payroll deductions, (c) all other amounts due and owing to Phipps by Amirsys, including any amounts for reimbursement of expenses that Phipps has incurred personally on Amirsys's behalf. Regular payroll and tax withholdings and deductions shall be applied to all amounts paid and shall reduce the gross amount paid accordingly. This amount to be paid is attributable to all of the Phipps Released Claims, including attorney's fees, costs, interest and all other expenses, which may have been incurred. Phipps acknowledges that this consideration listed in this paragraph constitutes consideration for this Agreement in addition to anything that he is entitled to receive from Amirsys. Phipps acknowledges he had been fully compensated by the terms of this Agreement for releasing the Phipps Release Claims.

17. Removal of Personal Guarantees. After the Effective Date, Amirsys will use its reasonable ongoing best efforts to remove Phipps name and personal guarantee, from any and all

credit card accounts, and merchant accounts, including but not limited to Wells Fargo and First Data accounts (the "Accounts"). If Amirsys is unable to remove Phipps name or guarantee from any of the Accounts, Amirsys will use its best efforts to close the existing Accounts and open new Accounts. Amirsys also agrees to indemnify and hold Phipps harmless for liabilities arising under such Accounts.

18. Phipps Release of Claims. Phipps hereby waives, releases, remises and discharges each and every one of the Amirsys Released Parties from liability with respect to the Phipps Released Claims. Phipps acknowledges that he understands he is prohibited from any further relief on the Phipps Released Claims. Phipps hereby promises and covenants never to institute any suit or action at law or in equity against the Amirsys Released Parties regarding or relating to the Phipps Released Claims. Specifically and without limitation, Phipps understands and agrees that he is waiving and forever discharging the Amirsys Released Parties from any and all claims, causes of action or complaints he may have or have ever had, which have or may have arisen prior to the execution of this Agreement. Phipps shall not pursue, or authorize anyone on his behalf to pursue, the Phipps Released Claims in any way in any court. Phipps represents that he has not filed and there is not pending with any governmental agency or any state or federal court, any other claims, complaints, charges, or lawsuits of any kind against the Amirsys Released Parties. Phipps agrees that he shall not make any filings with any court at any time hereafter for any matter, claim or incident, known or unknown, which occurred or arose out of occurrences on or prior to the date of this Agreement; provided, however, this shall not limit the Parties from filing a lawsuit for the sole purpose of enforcing their rights under this Agreement. Each of the Parties shall bear their own costs and attorneys' fees in this dispute.

19. Owner of Phipps Release Claims. Phipps represents and warrants that he is the sole owner of the Phipps Released Claims, that the Phipps Released Claims have not been assigned, transferred, or disposed of in fact, by operation of law or in any manner whatsoever, and that he has the full right and power to grant, execute and deliver the full and complete releases, undertakings, and agreements herein contained.

20. Amirsys Release of Claims. Amirsys intends to bind itself and its directors and officers (in their capacity as such), hereby waive, release, remise and discharge Phipps from liability with respect to the Amirsys Released Claims. Amirsys acknowledge that it understands that it is prohibited from any further relief on the Amirsys Released Claims. Amirsys hereby promise and covenant never to institute any suit or action at law or in equity against Phipps regarding or relating to the Amirsys Released Claims. Specifically and without limitation, the Amirsys Parties understand and agree that it is waiving and forever discharging Phipps from any and all claims, causes of action or complaints they may have or have ever had, which have or may have arisen. Amirsys shall not pursue, or authorize anyone on their behalf to pursue, the Amirsys Released Claims in any way in any court. Amirsys represents that it has not filed and there is not pending with any governmental agency or any state or federal court, any other claims, complaints, charges, or lawsuits of any kind against Phipps. Amirsys agrees that it shall not make any filings with any court at any time hereafter for any matter, claim or incident, known or unknown, which occurred or arose out of occurrences

on or prior to the Effective Date. Each of the Parties shall bear their own costs and attorneys' fees in this dispute.

21. Owner of Amirsys Release Claims. The Amirsys Parties represent and warrant that they are the sole owners of the Amirsys Released Claims, that the Amirsys Released Claims have not been assigned, transferred, or disposed of in fact, by operation of law or in any manner whatsoever, and that each of them has the full right and power to grant, execute and deliver the full and complete releases, undertakings, and agreements herein contained.

22. Non-Disparagement and Confidentiality of Agreement. The Parties agree that, after the Effective Date, they shall not make any derogatory or disparaging statements concerning each other. The Parties agree that the existence and terms of this Agreement shall be and remain confidential. The Parties acknowledge that this confidentiality provision is an essential element of the consideration the Parties for entering into this Agreement. Therefore, the Parties agree not to discuss the circumstances of the ending of Phipps's employment with Amirsys or the existence of the terms of this Agreement to anyone, except as required by law or permitted herein. The Parties agree to reveal only that the matter has been resolved. Amirsys agrees to instruct its management employees to not disparage or create any negative publicity about Phipps. Phipps agrees to not disparage or create any negative publicity about Amirsys, or its officers, directors, employees, shareholders, products or services. This paragraph shall not apply to any action by the Parties to enforce this Agreement. If any provision of this paragraph is breached, the Parties shall be entitled to such legal or equitable relief as may be available by law.

23. Tax Consequences. Phipps acknowledges that there are significant income tax consequences relating to the performance of the obligations herein, these including the re-valuation of the intellectual property, cancellation of the promissory notes, and repayment of the deferred compensation. Phipps assumes full and sole responsibility for any tax consequences related to this Agreement, including but not limited to any applicable taxes, assessments, withholding obligations, penalties and interest payments arising out of the payment of the settlement considerations.

24. No Admission. This Agreement is entered into by the Parties solely to avoid the expenses associated with litigation and does not constitute and shall not be construed as an admission by the Amirsys Released Parties or Phipps of any breach of any alleged agreements or duties, or of any wrongdoing toward each other or any other person, including any alleged breach of contract or violation of any federal, state, or local law, regulation, or ordinance. The Amirsys Released Parties and Phipps specifically disclaims any liability to each other for wrongdoing of any kind.

25. Subsequent Proceedings. The Parties agree that this Agreement may be used in evidence in a subsequent proceeding in which any of the Parties alleges a breach of this Agreement.

26. Right to Consult with Legal Counsel. The Parties affirm they are not relying on any representations or statements made by each other which are not specifically included in this Agreement. The Parties acknowledge they have been informed in writing by this Agreement that they have the right to consult with legal counsel regarding this release and confirm that they have

consulted with counsel to the extent it desires concerning the meaning and consequences of this Agreement.

27. Entire Agreement/Modification. This Agreement constitutes the entire agreement between the Parties with relation to the subject matter hereof. Any prior negotiations or correspondence relating to the subject matter hereof shall be deemed to have merged into this Agreement and to the extent inconsistent herewith shall be deemed to be of no force or effect. This Agreement may not be modified, nor any provision waived unless such modification or waiver is made in writing referring to this Agreement and signed by each Party. This Agreement shall be binding upon and inure to the benefit of each of the Party's respective successors, heirs, executors, administrators and assigns, as the case may be.

28. Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all of such counterparts shall constitute one and the same instrument.

29. Governing Law. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Utah, and/or when applicable, of the United States.

30. Enforceability. The provisions of this Agreement are severable, and if any part of it is found to be unenforceable, the other parts and/or paragraphs shall remain fully valid and enforceable. Should any provisions of this Agreement be determined by any court or administrative body to be invalid, the validity of the remaining provisions shall not be affected thereby and the invalidated part shall be deemed not a part of this Agreement. Any court or administrative body shall construe and interpret this Agreement as enforceable to the full extent available under applicable law. This Agreement shall survive the termination of any arrangements contained in it.

31. Further Assurances. Each party hereto agrees to execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken all such further or other actions, as necessary or desirable to more fully effectuate the purposes and intent of this Agreement.

32. Informed Consent/Revocation of Agreement. Phipps and Amirsys acknowledge and understand this is a legal contract and that they sign this Agreement knowingly, freely and voluntarily and have not been threatened, coerced or intimidated into making the same. Phipps and Amirsys acknowledge that they have had ample and reasonable time to consider this Agreement and the effects and import of it and that they have fully dwelt on it in their minds and have had such counsel and advice, legal or otherwise, as they desire in order to make this Agreement. PHIPPS AND AMIRSYS, BY SIGNING THIS AGREEMENT, ACKNOWLEDGE IT CONTAINS A RELEASE OF KNOWN AND UNKNOWN CLAIMS. Phipps and Amirsys have read and fully considered this Agreement and understand and desire to enter into it. The terms of this agreement were derived through mutual compromise and are fully understood. Phipps acknowledges that he has been offered at least twenty one (21) days to consider the impact of this Agreement and its release of his rights to bring suit against the Amirsys Released Parties and after due consideration has decided to enter into this Agreement at this time. Phipps further understands that he may revoke

this Agreement for a period of up to seven (7) days following signature and execution of the same. Any revocation within this period must be signed and submitted in writing to the undersigned representative of Amirsys and must state, "I hereby revoke my acceptance of the Agreement." Phipps understands that if he revokes this Agreement, he is not entitled to receive the consideration provided by this Agreement.

[Signature Page To Follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

EMPLOYEE



---

Gregory J. Phipps

AMIRSYS, INC.

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

EMPLOYEE

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Gregory J. Phipps

AMIRSYS, INC.

By: H. Ric Harusberger  
Print Name: H. Ric Harusberger  
Its: CEO

**EXHIBIT A**

**The Founding Note**

## FULL RE COURSE PROMISSORY NOTE

November 2, 2000

### Principal Amount:

1. **Obligation.** In exchange 112,500 for shares (the "Shares") of the Common Stock of Amirsys, Inc., a Delaware corporation (the "Company"), represented by common stock certificate number 9, receipt of which is hereby acknowledged, the undersigned (the "Maker") hereby promises to pay to the order of the Company at the Company's principal place of business, or at such other place as the Company may direct, the principal sum of \$45,000, together with simple interest computed at 6.09 %, on the unpaid principal balance (the "Note"). Interest on this Note shall be paid in full annually. The payment of all principal under this Note will be due on November 2, 2010, at which time all unpaid interest and principal shall be due and payable in full.

2. **Acceleration of Obligation.** The principal sum of this Note, together with all interest accrued thereon, shall immediately become due and payable in full: (a) upon any transfer of any of the Shares; or (b) in the event that the undersigned ceases to be employed by the Company and the Company exercises its Repurchase Option to repurchase all or some of the Shares under that certain Restricted Stock Purchase Agreement between the undersigned and the Company dated of even date herewith.

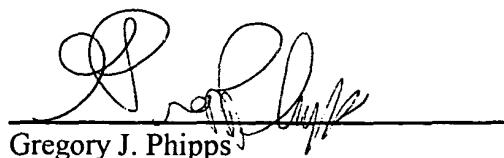
3. **Remedies on Default.** Payment of this Note is secured by a Pledge Agreement dated as of even date herewith between the Company and the undersigned. Upon any default of the undersigned under this Note, the Company shall have, in addition to its rights and remedies under the Pledge Agreement, full recourse against any real, personal, tangible or intangible assets of the undersigned, and may pursue any legal or equitable remedies that are available to it.

4. **Governing Law; Waiver.** The validity, construction and performance of this Note shall be governed by the laws of the State of Utah, excluding that body of law pertaining to conflicts of law. The undersigned hereby waives presentment, notice of non-payment, notice of dishonor, protest, demand and diligence.

5. **Attorneys' Fees.** If suit is brought for collection of this Note, the undersigned agrees to pay all reasonable expenses, including attorneys' fees, incurred by the holder in connection therewith whether or not such suit is prosecuted to judgment.

**IN WITNESS WHEREOF,** the undersigned has caused this Note to be executed as of the date and year first above written.

Cancer II and R

  
\_\_\_\_\_  
Gregory J. Phipps

**EXHIBIT B**

The December 2000 Notes

## FULL RE COURSE PROMISSORY NOTE

December 29, 2000

### Principal Amount:

**1. Obligation.** The undersigned (the "Maker") hereby promises to pay to the order of Amirsys, Inc., a Delaware corporation (the "Company") at the Company's principal place of business, or at such other place as the Company may direct, the principal sum of \$20,000, together with simple interest computed at 6.09 %, on the unpaid principal balance (the "Note"). Interest on this Note shall be paid in full annually. The payment of all principal under this Note will be due on December 29, 2010, at which time all unpaid interest and principal shall be due and payable in full.

**2. Acceleration of Obligation.** The principal sum of this Note, together with all interest accrued thereon, shall immediately become due and payable in full: (a) upon any transfer of any of the Shares; or (b) in the event that the undersigned ceases to be employed by the Company.

**3. Remedies on Default.** Payment of this Note is secured by a Pledge Agreement dated as of even date herewith between the Company and the undersigned. Upon any default of the undersigned under this Note, the Company shall have, in addition to its rights and remedies under the Pledge Agreement, full recourse against any real, personal, tangible or intangible assets of the undersigned, and may pursue any legal or equitable remedies that are available to it.

**4. Governing Law; Waiver.** The validity, construction and performance of this Note shall be governed by the laws of the State of Utah, excluding that body of law pertaining to conflicts of law. The undersigned hereby waives presentment, notice of non-payment, notice of dishonor, protest, demand and diligence.

**5. Attorneys' Fees.** If suit is brought for collection of this Note, the undersigned agrees to pay all reasonable expenses, including attorneys' fees, incurred by the holder in connection therewith whether or not such suit is prosecuted to judgment.

**IN WITNESS WHEREOF,** the undersigned has caused this Note to be executed as of the date and year first above written.

Cancelled R

  
\_\_\_\_\_  
Gregory J. Phipps

## FULL RE COURSE PROMISSORY NOTE

December 2, 2000

### Principal Amount:

**1. Obligation.** The undersigned (the "Maker") hereby promises to pay to the order of Amirsys, Inc., a Delaware corporation (the "Company") at the Company's principal place of business, or at such other place as the Company may direct, the principal sum of \$10,000, together with simple interest computed at 6.09 %, on the unpaid principal balance (the "Note"). Interest on this Note shall be paid in full annually. The payment of all principal under this Note will be due on December 2, 2010, at which time all unpaid interest and principal shall be due and payable in full.

**2. Acceleration of Obligation.** The principal sum of this Note, together with all interest accrued thereon, shall immediately become due and payable in full: (a) upon any transfer of any of the Shares; or (b) in the event that the undersigned ceases to be employed by the Company.

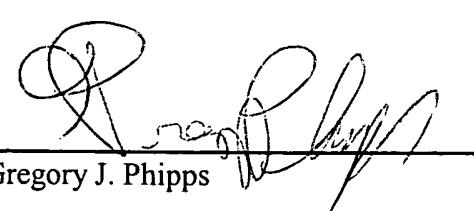
**3. Remedies on Default.** Payment of this Note is secured by a Pledge Agreement dated as of even date herewith between the Company and the undersigned. Upon any default of the undersigned under this Note, the Company shall have, in addition to its rights and remedies under the Pledge Agreement, full recourse against any real, personal, tangible or intangible assets of the undersigned, and may pursue any legal or equitable remedies that are available to it.

**4. Governing Law; Waiver.** The validity, construction and performance of this Note shall be governed by the laws of the State of Utah, excluding that body of law pertaining to conflicts of law. The undersigned hereby waives presentment, notice of non-payment, notice of dishonor, protest, demand and diligence.

**5. Attorneys' Fees.** If suit is brought for collection of this Note, the undersigned agrees to pay all reasonable expenses, including attorneys' fees, incurred by the holder in connection therewith whether or not such suit is prosecuted to judgment.

**IN WITNESS WHEREOF,** the undersigned has caused this Note to be executed as of the date and year first above written.

Canceled JR

  
\_\_\_\_\_  
Gregory J. Phipps

**EXHIBIT C**

The April 2001 Note

# FULL RE COURSE PROMISSORY NOTE

April 6, 2001

## Principal Amount:

1. **Obligation.** In exchange 80,000 for shares (the "Shares") of the Common Stock of Amirsys, Inc., a Delaware corporation (the "Company"), represented by common stock certificate number 13, receipt of which is hereby acknowledged, the undersigned (the "Maker") hereby promises to pay to the order of the Company at the Company's principal place of business, or at such other place as the Company may direct, the principal sum of \$34,000, together with simple interest computed at 6.09 %, on the unpaid principal balance (the "Note"). Interest on this Note shall be paid in full annually. The payment of all principal under this Note will be due on April 6, 2011, at which time all unpaid interest and principal shall be due and payable in full.

2. **Acceleration of Obligation.** The principal sum of this Note, together with all interest accrued thereon, shall immediately become due and payable in full: (a) upon any transfer of any of the Shares; or (b) in the event that the undersigned ceases to be employed by the Company and the Company exercises its Repurchase Option to repurchase all or some of the Shares under that certain Restricted Stock Purchase Agreement between the undersigned and the Company dated of even date herewith.

3. **Remedies on Default.** Payment of this Note is secured by a Pledge Agreement dated as of even date herewith between the Company and the undersigned. Upon any default of the undersigned under this Note, the Company shall have, in addition to its rights and remedies under the Pledge Agreement, full recourse against any real, personal, tangible or intangible assets of the undersigned, and may pursue any legal or equitable remedies that are available to it.

4. **Governing Law; Waiver.** The validity, construction and performance of this Note shall be governed by the laws of the State of Utah, excluding that body of law pertaining to conflicts of law. The undersigned hereby waives presentment, notice of non-payment, notice of dishonor, protest, demand and diligence.

5. **Attorneys' Fees.** If suit is brought for collection of this Note, the undersigned agrees to pay all reasonable expenses, including attorneys' fees, incurred by the holder in connection therewith whether or not such suit is prosecuted to judgment.

**IN WITNESS WHEREOF,** the undersigned has caused this Note to be executed as of the date and year first above written.

*Canceled* *GP*

*Gregory J. Phipps*  
\_\_\_\_\_  
Gregory J. Phipps

**EXHIBIT D**

**WAIVER OF NOTICE**

**OF SPECIAL MEETING OF DIRECTORS OF  
AMIRSYS, INC.**

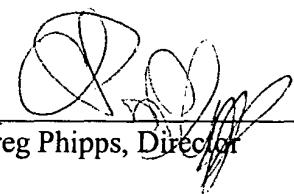
The undersigned director of the above Corporation hereby agrees and consents to the holding of a special meeting of the directors of the Company on the date and at the time and place stated below and hereby waives any required notice of such meeting and of any adjournment thereof.

Place of Meeting:                              Company Headquarters

Date of Meeting:                              September 4, 2002

Time of Meeting:                              4:30 p.m., MST

DATED this 4th day of September 2002.



\_\_\_\_\_  
Greg Phipps, Director